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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No.: FAA-2014-0502; Amdt. No. 135-131]

RIN 2120-AK49

Departing IFR / VFR When Weather Reporting Is Not Available; Confirmation of Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of the direct final rule published on July 28, 2014, and responds to the comments received on that direct final rule. The rule permits the pilot in command of a helicopter air ambulance to assess the weather at a departure point where current weather observations are not available and allows the pilot to depart if the observed ceiling and visibility is greater than certain weather minimums. This action will allow a pilot to utilize the minimum takeoff visibilities depicted in a published obstacle departure procedure, or in the absence of such a procedure, when the pilot observed ceiling and visibility is greater than the minimum ceiling and visibility limitations required by specific helicopter air ambulance rules. This change to the current regulation will permit helicopter air ambulance flights to enter the National Airspace System (NAS) under Instrument Flight Rules (IFR) when visibilities and ceilings are below Visual Flight Rules (VFR), thus increasing the safety of the flight.

DATES: The direct final rule published July 28, 2014 (79 FR 43619) will become effective on April 22, 2015.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this action, see “How To Obtain Additional Information” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Andrew C. Pierce, Air Transportation Division, 135 Air Carrier Operations Branch, AFS-250, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202-267-8238; e-mail andy.pierce@faa.gov.

For legal questions concerning this action, contact Nancy Sanchez, AGC-220, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202-267-7280; e-mail nancy.sanchez@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 2014, the FAA published a final rule titled Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations (79 FR 9932, February 21, 2014). In that final rule, the FAA amended its regulations to revise the helicopter air ambulance, commercial helicopter, and general aviation helicopter operating requirements. In particular, the FAA added new testing and checking requirements for pilots operating rotorcraft under part 135. Subsequently, the FAA determined that the compliance date of April 22, 2014, originally included in the February 21, 2014, final rule did not provide an adequate amount of time for affected

certificate holders to implement the new requirements. On April 21, 2014, the FAA published a final rule in the Federal Register extending the effective date of the February 21, 2014, final rule from April 22, 2014, to April 22, 2015 (79 FR 22009, April 21, 2014).

One of the new provisions in the February 21, 2014, final rule, § 135.611, allows helicopter air ambulance (HAA) operators to conduct IFR operations at airports and heliports without a weather reporting facility if they can obtain weather reports from an approved weather reporting facility located within 15 nautical miles of the destination landing area and meet other pilot and equipment requirements. The February 21, 2014, final rule did not provide a means for HAA flights with IFR clearances to depart from airports not served with current weather observation reports. The language in the February 21, 2014, rule did not allow a pilot to utilize the minimum takeoff visibilities depicted in published obstacle departure procedures (ODP) when these are available. As a result, IFR capable departing flights were not able to gain direct access into the IFR system when weather conditions are worse than the Class G VFR minimums published in § 135.609, but are better than or equal to the published ODP takeoff minimums when the ODP depicts a “proceed visually” transition to the Initial Departure Fix (IDF).

To address this circumstance, on July 28, 2014, the FAA published a direct final rule to permit the pilot in command of a helicopter air ambulance to assess the weather at a departure point where current weather observations are not available and allows the pilot to depart if the observed ceiling and visibility is greater than certain weather minimums (79 FR 43619, July 28, 2014). This action also allows a pilot to utilize the minimum takeoff visibilities depicted in a published ODP, or in the absence of such a

procedure, when the pilot observed ceiling and visibility is greater than the minimum ceiling and visibility limitations required by specific helicopter air ambulance rules. This change to the regulations permits helicopter air ambulance flights to enter the NAS under IFR when visibilities and ceilings are below VFR, thus increasing the safety of the flight.

Discussion of Comments

The FAA received three comments to the direct final rule from two individuals and a comment from Helicopter Association International (HAI), regarding a clarification of terms related to “proceed VFR” vs. “proceed visually” and requested clarity on the required visibility for transition to the ODP. In response, the FAA published a Clarification of the Final Rule, which specifically explains the difference between the two terms, how they relate to the ODP and transition to the IDF, as well as the FAA’s intent (79 FR 58672, September 30, 2014). The FAA will make no changes to the Final Rule and has concluded that the Clarification of the Final Rule will address any questions about the obstacle departure procedure and terms used in the Final Rule.

Conclusion

After consideration of the comments submitted in response to the direct final rule, the FAA has determined that no further rulemaking action is necessary and believes that the Clarification of the Final Rule published September 30, 2014, will clarify any questions about the ODP and terms used in the Final Rule; therefore, amendment 135-131 remains in effect.

How to Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet —

1. Search the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visit the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/ or
3. Access the Government Printing Office's Web page at <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to <http://www.regulations.gov> and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the FOR FURTHER INFORMATION CONTACT heading at the beginning

of the preamble. To find out more about SBREFA on the Internet, visit

http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in
Washington, DC, on October 29, 2014.

Lirio Liu,

Director, Office of Rulemaking.

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